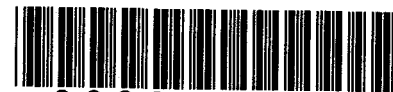


# OPEN MEETING ITEM

**COMMISSIONERS**  
SUSAN BITTER SMITH - Chairman  
BOB STUMP  
BOB BURNS  
DOUG LITTLE  
TOM FORESE



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## ARIZONA CORPORATION COMMISSION

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DATE: FEBRUARY 3, 2015

DOCKET NO.: W-02074A-07-0616

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

TO ALL PARTIES:

**ORIGINAL**

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Order on:

BEARDSLEY WATER COMPANY  
(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

FEBRUARY 12, 2015

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:


MARCH 2, 2015 and MARCH 3, 2015

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

**DOCKETED**

FEB 03 2015

DOCKETED BY 

  
JODI JERICH  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347  
[www.cc.state.az.us](http://www.cc.state.az.us)

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov).

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

SUSAN BITTER SMITH - Chairman  
BOB STUMP  
BOB BURNS  
DOUG LITTLE  
TOM FORESE

IN THE MATTER OF APPLICATION OF  
BEARDSLEY WATER COMPANY FOR AN  
EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY.

DOCKET NO. W-02074A-07-0616

DECISION NO. \_\_\_\_\_

**ORDER**

Open Meeting  
March 2 and 3, 2015  
Phoenix, Arizona

**BY THE COMMISSION:**

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On October 24, 2007, Beardsley Water Company ("Beardsley" or the "Company") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("Certificate" or "CC&N") to provide domestic water service to the Peak View Ranch Developments Units 4 and 5 in Maricopa County, Arizona.<sup>1</sup>
2. On April 28, 2008, the City of Surprise ("City") was granted intervention in this matter, because the City was the Maricopa Association of Government 208 designated sewer provider.
3. On August 6, 2008, the Commission issued Decision No. 70463, approving Beardsley's application for an extension of its CC&N to provide water service to Asante West Estates.

<sup>1</sup> Subsequent to the filing of the application in this docket, the name of the development was changed to Asante West Estates.

1           4.     Decision No. 70463, required Beardsley, among other things, within two years of the  
2 effective date of the Decision, to provide the following:

- 3               a.     A copy of the Approval to Construct ("ATC") issued by the Maricopa County  
4                     Environmental Services Department, for water plant facilities needed to serve  
5                     the extension area; and  
6               b.     A copy of the developer's Certificate of Assured Water Supply ("CAWS") for  
7                     the extension area.

8           5.     Decision No. 70463 also ordered that if Beardsley failed to meet the compliance  
9 deadlines outlined above, the CC&N extension granted in the Decision shall be considered null and  
10 void after due process.<sup>2</sup>

11           6.     On September 13, 2011, Beardsley docketed a letter stating that the Company required  
12 the developer to obtain both the CAWS and ATC. Further, the letter stated that the development  
13 known as Asante West had never been developed nor was any portion of construction attempted.  
14 Beardsley's letter informed the Commission that the Company had spoken with the developer for  
15 Asante West who stated the CAWS and ATC were never obtained and that the project was not going  
16 to proceed. Beardsley requested that extension area granted in Decision No. 70463 be deleted from  
17 its CC&N.

18           7.     On September 26, 2014, Beardsley docketed a Notice of Non-Opposition, stating that  
19 the Company was providing notice that 1) it considers the due process requirements in the Arizona  
20 Constitution and as set forth in James P. Paul Water Co. v. Arizona Corp. Comm'n, 137 Ariz. 426,  
21 671 P.2d 404 (1983), to have been met in this instance; and 2) that the Company does not oppose the  
22 Commission considering Decision No. 70463 to be null and void pursuant to its terms.

23           8.     On January 20, 2015, the Commission's Utilities Division ("Staff") docketed a  
24 Memorandum, stating that Staff had contacted Steven Hirsch, counsel for Beardsley, and that Mr.  
25 Hirsch confirmed that the Company wanted this matter closed and the area deleted from the CC&N.  
26 Staff has concluded that the extension of Beardsley's CC&N (approved in Decision No. 70463), is  
27 not currently necessary and Staff concluded that the Company does not wish to retain the portion of  
28 the CC&N granted in the Decision. Therefore, Staff recommends that the Commission delete the

<sup>2</sup> Decision No. 70463 (August 6, 2008) at 9.

1 previously granted CC&N extension area and that any remaining compliance items outlined in  
2 Decision No. 70463 be vacated.

3 9. Beardsley considers all due process requirements to have been met. No objections  
4 have been filed regarding the Company's request to delete the portions of its CC&N granted in  
5 Decision No. 70463, and no requests for a hearing have been made. Further, there is no current need  
6 and necessity for water service in the extension area. Therefore, we find that it is in the public  
7 interest to grant Beardsley's request to delete the portions of its CC&N granted in Decision No.  
8 70463 and that this docket be closed.

9 10. Staff's recommendations are reasonable and should be adopted.

### 10 CONCLUSIONS OF LAW

11 1. Beardsley is a public service corporation within the meaning of Article XV of the  
12 Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

13 2. The Commission has jurisdiction over Beardsley and the subject matter of this  
14 application.

15 3. There is no current need and necessity for water service in the portions of the CC&N  
16 areas granted to Beardsley in Decision No. 70463.

17 4. No objections have been filed regarding the Company's request to delete the portions  
18 of its CC&N granted in Decision No. 70463, and no requests for a hearing have been made.

19 5. It is in the public interest to grant Beardsley Water Company's request to delete the  
20 portions of its CC&N granted in Decision No. 70463.

21 6. Staff's recommendations, as described herein, are reasonable and should be adopted.

### 22 ORDER

23 IT IS THEREFORE ORDERED that Beardsley Water Company's request to delete the  
24 portions of its Certificate of Convenience and Necessity approved in Decision No. 70463 (August 6,  
25 2008) is hereby granted.

26 IT IS FURTHER ORDERED that any remaining compliance items outlined in Decision No.  
27 70463 (August 6, 2008) are hereby vacated.  
28

1 IT IS FURTHER ORDERED that Docket Control shall close this docket.

2 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

3 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
4  
5

6 CHAIRMAN \_\_\_\_\_ COMMISSIONER \_\_\_\_\_  
7

8 COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_  
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11  
12 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
13 Director of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

17  
18 JODI JERICH  
19 EXECUTIVE DIRECTOR

20 DISSENT \_\_\_\_\_  
21

22 DISSENT \_\_\_\_\_  
23 YK:tv  
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SERVICE LIST FOR:

BEARDSLEY WATER COMPANY

DOCKET NO.:

W-02074A-07-0616

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